



Shingle Springs Interchange Project



Final Supplemental Environmental Impact Report

On Route 50

From 2.4 kilometer (1.2 miles) west of Shingle Springs Drive

To 1.6 kilometer (1 mile) east of Greenstone Road

03-ED-50 KP R 16.6/R 18.7

SCH # 2001072018

August 2006



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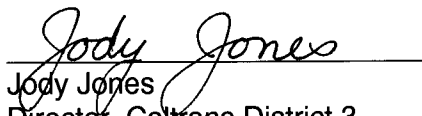
Route 50 from 2.4 Kilometer (1.2 Miles) west of Shingle Springs Drive to 1.6 Kilometer
(1 mile) east of Greenstone Road
El Dorado County, California

FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

Submitted Pursuant to: (State) Division 13, Public Resources Code

THE STATE OF CALIFORNIA
Department of Transportation

August 8, 2006
Date of Approval


Jody Jones
Director, Caltrans District 3
California Department of Transportation

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Abstract

The Proposed Project consists of the construction, operation and maintenance of an interchange on Route 50 in El Dorado County, California, to provide open access to the existing Shingle Springs Rancheria. The immediate plan for development on the Rancheria is a hotel and casino project. This Final Supplemental EIR responds to a decision of the California Court of Appeal, Third District, which directed Caltrans to provide additional air quality analysis regarding the project-specific, traffic-related ozone precursor emissions and to analyze one or more alternatives consisting of less development on the Rancheria, e.g., a smaller hotel and/or casino. Potentially significant impacts for the proposed interchange project were identified in the Final EIR in the categories of transportation, biological resources, air quality, noise and vibration, visual resources, cultural resources, hazardous materials, and drainage impacts. However, in every case, measures have been identified to mitigate the impacts to a less-than-significant level. The EIR found that the Flyover Alternative is the environmentally superior alternative. This Final Supplemental EIR finds that the same mitigation measures required for the interchange project would also mitigate the impacts of the additional alternatives to a less-than-significant level, and does not identify any new or more severe potentially significant impacts of the interchange project. The Final Supplemental EIR also finds that the project-specific traffic-related ozone precursor impacts of the project would not be significant. Caltrans also rejects the two new alternatives for the reasons set forth in the attached findings.

Based on the entire record, Caltrans adopts the following findings with respect to the Shingle Springs Interchange Project and its certification of the Final Supplemental EIR for that project.

FINDINGS REGARDING AIR QUALITY IMPACTS

Section 5.5-7 of the Supplemental EIR concludes, based on substantial record evidence, that the project-specific, traffic-related ozone precursor impacts of the Interchange Project are less-than-significant. Accordingly, no mitigation is required beyond the air quality measures recommended in the 2002 EIR.

FINDINGS REGARDING ALTERNATIVES

Environmentally Superior Alternative

The 2002 EIR concluded that the Proposed Project – the “flyover interchange” configuration – is the environmentally superior interchange. As to the on-Rancheria alternatives (Alternatives D and E) that the Supplemental EIR describes and analyzes, Caltrans finds that Alternative E is environmentally superior because it includes the lowest level of development of any of the on-Rancheria alternatives, and therefore would result in the least environmental impacts overall. In making this finding, Caltrans notes that the proposed hotel and casino (that associated with the Proposed Project) would not result in any significant adverse impacts after mitigation is imposed.

Consideration of Alternatives D and E

Pursuant to CEQA Guideline 15091(a), Caltrans rejects Alternatives D and E for the following reasons, each of which is an independent basis for rejecting these alternatives. In making these findings, Caltrans notes that it is not required to adopt either alternative because the 2002 EIR and the Final Supplemental EIR conclude that the Interchange Project will not result in any significant adverse impacts, with the mitigation that has been imposed.

Caltrans hereby finds that specific legal considerations make Alternatives D and E infeasible because Caltrans has no land use or other regulatory authority over development that is proposed on sovereign tribal lands, including the casino and hotel as proposed by the Shingle Springs Band. In addition, the Interchange Project is one lane in each direction, and thus Caltrans cannot modify the Interchange Project in a manner that indirectly reduces the size of the casino and hotel. Caltrans further finds that the changes or alterations in the proposed project evaluated in Alternatives D and E (a smaller hotel and casino), are entirely within the responsibility and jurisdiction of other entities and agencies, including the Shingle Springs Band, the Bureau of Indian Affairs and the National Indian Gaming Commission. Caltrans does not have jurisdiction to impose or enforce any limitations on on-Rancheria activities such as the construction or operation of the hotel and casino. On-Rancheria activities are subject to the exclusive jurisdiction of the federal government. 31 U.S.C. § 6506; *New Mexico v. Mescalero*

Apache Tribe (1983) 462 U.S. 324. Moreover, California Government Code section 12012.25(g) provides that activities on a tribal reservation such as the Rancheria do not constitute a “project” subject to CEQA. Caltrans’ authority to impose mitigation or alternatives extends only as far as its CEQA authority extends. CEQA Guideline 15040(b). Accordingly, Caltrans has no legal ability to require the Shingle Springs Tribe to construct a smaller or otherwise different hotel or casino than it proposes to construct (which the 2002 EIR and the Supplemental EIR analyzed as the Proposed Project). Moreover, the proposed interchange, over which Caltrans does have jurisdiction, is one lane in each direction. Thus, there is no way for Caltrans to indirectly control the size of the casino or hotel, for example by making the interchange smaller to limit potential patronage of the on-Rancheria facilities.

As a separate and independent basis for rejecting Alternatives D and E, Caltrans hereby finds that specific economic considerations also make Alternatives D and E infeasible. The objective of the Interchange Project is to allow the Tribe access to its Rancheria so that it can construct a new hotel and gaming facility to fulfill and fully benefit from the terms of its Tribal-State Compact. 2002 EIR at Section 3.1.2. That compact allows a level of gaming that is served only by the proposed casino. That casino demands a certain level of ancillary facilities, including the proposed hotel, and both the casino and hotel provide a revenue base to fund the construction of the Interchange. A smaller hotel and casino would not meet this primary project objective. Therefore, both of these alternatives are infeasible for this reason.

Caltrans has made the foregoing findings to explain the specific legal and economic considerations that render Alternatives D and E infeasible. It is also important to note, however, that the 2002 EIR and the Supplemental EIR concluded that all potentially significant impacts of the proposed Interchange Project can be mitigated to a less-than-significant level. 2002 EIR at Ch. 5; Supplemental EIR at Ch. 5. CEQA Guideline 15126.6(a) provides that the purpose of an alternatives analysis in an EIR is to identify alternatives that “would avoid or substantially lessen any of the significant effects of the project.” Accordingly, CEQA does not require an EIR to make findings rejecting alternatives where the EIR has determined that all potentially significant impacts of the proposed project will be avoided or reduced to a less-than-significant level. *Mira Mar Mobile Community v. City of Oceanside* (CH Oceanside) (2004) 119 Cal.App.4th 477, 490; *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 379, citing *Laurel Heights Improvement Ass’n v. Board of Supervisors* (1988) 47 Cal.3d 376, 402; *Laurel Hills Homeowners Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521.